IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 9526 of 1996

Between:

K. Srinivasulu, S/o. Raghavulu Chetty, Hindu, Treasurer,

r/o., Cooperative Bank Ltd., Tirupati,
Chittoor Dist.,

.... PETITIONER

AND

The Managing Director, The Tirupati Cooperative Bank Ltd.,

Tirupati, Chittoor Dist.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly a writ in the nature of Mandamus, declaring the order in proceedings TCB/Admn/31, 95-96 dt. 11-3-96 passed by the respondent herein as illegal and contrary to the memorandum No. 2172/D2/87-2/4 HM & PW dt. 10-3-1988 and further direct the respondent herein to restore the sanctioning of family planning increments to me as ordered in order TCB/Admn/95-96 dt. 12-2-1996 of the respondent herein.

Counsel for the Petitioner: MR.K.V.SUBRAMANYA NARASU

Counsel for the Respondent: MR.M.RAVINDRANATH REDDY

The Court made the following :

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ORAL ORDER:

The petitioner is a treasurer in The Tirupati Cooperative Bank Limited, Tirupati, who was under suspension on the date of filing of the writ petition. He is aggrieved by the withdrawal of the benefit of a family planning increment, by the order of the respondent bank dated 12.02.1996. The respondent bank had adopted a scheme of the Government introduced in G.O.Ms.No.345 M & HD2 Department, dated 19.04.1982, as amended in G.O.Ms.No.943, dated 27.09.1978, granting one advance increment to all Government servants having two or less living children, who themselves or whose spouses undergo sterilization operation, from the date of such sterilization. The petitioner was sanctioned the increment, drew that and by the impugned proceedings of the respondent, the increment sanctioned and drawn by the petitioner was withdrawn by the respondent bank. In the circumstances, the writ petition has been lodged for appropriate reliefs.

It is neither pleaded, urged nor demonstrated before this Court that the respondent bank is an agency or instrumentality of the State, within the meaning of Article 12 of the Constitution of India. Sterilization increment drawn by the petitioner was the product of an instrument enjoined by the bank albeit following an instrument issued by the State Government, namely, G.O.Ms.Nos.345 and 943, dated 19.04.1982 and 27.09.1978 respectively. These benefits were withdrawn by the respondent bank. Neither granting of an increment nor its withdrawal constitutes conduct referable to a statutory instrument. As no public duty as such is involved in this area by the respondent bank and as no statutory instrument has been violated, the grievance of the petitioner does not fall to be adjudicated under Article 226 of the Constitution of India, in view of the law declared by a Full Bench of this Court in **SRI KONASEEMA CO-OP. CENTRAL BANK LTD., v. N.SEETHARAMA RAJU (FB)** and by the Supreme Court in **FEDERAL BANK v. SAGAR THOMAS & ORS.**.

On the analysis above, the writ petition is not maintainable and is accordingly dismissed. The petitioner is at liberty to work out an appropriate alternative remedy available under law.

9th August, 2004

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To

1. The Managing Director,

   The Tirupati Cooperative Bank Ltd.,

   Tirupati, Chittoor District.

2) Two CD copies.